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09/646,119	10/30/2000	Gunter Halmschlager	P19790	3782
7055	7590	09/30/2011	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			FORTUNA, JOSE A	
			ART UNIT	PAPER NUMBER
			1741	
			NOTIFICATION DATE	DELIVERY MODE
			09/30/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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DETAILED ACTION

Priority

1. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 98-131 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kinnunen, US Patent No. 6,413,369 as evidenced by Jaakkola et al., US Patent No. 5,759,353 or Pullinen, US Patent No. 4,523,978.

Kinnunen an arrangement and method for forming a multilayered web or paperboard, having the same limitations as claimed, i.e., at least two gap formers, including a forming roll, dewatering elements, (the claimed forming shoes), dewatering belt and couching zones configured to join the surfaces of the layers having higher content of fines, see abstract, column 1, lines 12-36, and figures. Kinnunen teaches also the use of

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non-gap formers, i.e., Fourdrinier formers; see for example figures 2-6. The configuration on both, i.e. the current application and the cited reference seems to be the same or at least the minor modification(s) to obtain the claimed invention would have been obvious to one of ordinary skill in the art. Note that even though Kinnunen teaches that the preferred drainage members are vacuum suction boxes, but that other drainage members can be use, see paragraph bridging columns 5 and 6, therefore, the use of forming shoes, which are known to be drainage members, see for example US Patent No. 5,759,353 or 4,523,978, are implicitly recited or at the very least its/their use would have been obvious to one of ordinary skill in the art. Moreover, forming shoes can include suction/vacuum boxes inside.

3. Claims 98-131 are rejected under 35 U.S.C. 135(b)(1) as not being made prior to one year from the date on which U.S. Patent No. 6,413,369 B2 was granted. See *In re McGrew*, 120 F.3d 1236, 1238, 43 USPQ2d 1632, 1635 (Fed. Cir. 1997) where the Court held that 35 U.S.C. 135(b) may be used as a basis for *ex parte* rejections.

Response to Arguments

4. Applicant's arguments with respect to claims 98-131 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Jose A. Fortuna/ whose telephone number is (571)272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew J. Daniels can be reached on 571-272-2450. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jose A. Fortuna/
Primary Examiner
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JAF